STATE OF ILLINOIS

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Central Illinois Public Service Company (AmerenCIPS) and Union Electric Company (AmerenUE)	:	02-0798
Application for entry of protective order to protect confidentiality of materials submitted in support of revised gas service tariffs.	:	
Central Illinois Public Service Company	:	03-0008
Proposed general increase in natural gas rates.	:	
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INITIAL BRIEF ON REHEARING OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

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Pursuant to 83 Ill. Adm. Code 200.800, Staff of the Illinois Commerce Commission ("Staff"), by and through its attorney, hereby files its Initial Brief on Rehearing in the above-captioned proceeding.

I. PROCEDURAL HISTORY

In its December 9, 2003, Notice of Commission Action ("Notice"), the Illinois Commerce Commission ("Commission") granted in part and denied in part the Petition for Rehearing filed by the Ameren Companies ("Ameren" or "Company"), regarding the post-test year capital additions included in the October 22, 2003, Final Order ("Order") in this proceeding. Ameren's Petition for Rehearing was granted in part to determine by what amount AmerenUE's ("UE") post-test year capital additions exceed the increases in UE's accumulated depreciation as of November 27, 2003, and denied in part as to all other issues. (Notice, p. 1.)

Pursuant to proper legal notice, a Prehearing Conference was held on December 18, 2003, before duly authorized Administrative Law Judges of the Commission at the Commission's offices in Springfield, Illinois. Thereafter, an evidentiary hearing was held on March 2, 2004. Appearances were entered by counsel on behalf of Ameren, Staff, and the Attorney General, on behalf of the People of the State of Illinois ("AG"). Ameren presented the testimony of Gary S. Weiss, Director, Regulatory Accounting and Depreciation for Ameren. Staff presented the testimony of Theresa Ebrey, Accountant in the Accounting Department in the Financial Analysis Division. The AG sponsored the testimony of David J. Effron, a self-employed consultant, Berkshire Consulting Services. At the conclusion of the hearing on March 2, 2004, the record was marked "Heard and Taken".

II. INTRODUCTION

The Commission's Order in the instant proceeding adopted the AG's recommendation that the Company's additions to plant in service be included in rate base to the extent that they exceed increased accumulated depreciation. (Order, pp. 10-11.) The basis for the Commission's conclusion was that while AmerenCIPS' proposed additions to plant in service were fully offset by increases in accumulated depreciation, UE's proposed additions to plant in service were not. (Id., p. 10.) Therefore, no pro forma adjustment for post-test year capital additions was allowed for

AmerenCIPS; no adjustment was made to either plant in service or accumulated depreciation. However, the adjustment approved in the Commission's Order for AmerenUE, adjusting both plant in service and accumulated depreciation, was based on December 31, 2002 net plant in service figures (AG Exhibit 1.0P UE, p. 6; AG Initial Brief, pp. 3-4), rather than extended twelve months from the filing of tariffs, as allowed in 83 Ill. Adm. Code 285.150(e) ("Section 285.150(e)").

On rehearing, Staff witness Ebrey, Company witness Weiss, and AG witness Effron proposed adjustments to the Order to reflect their interpretation of the scope of the rehearing. (ICC Staff Exhibit 19.0, Schedule 19.1 (Revised), Schedule 19.2 (Revised); AmerenUE Exhibit No. 36.1 Revised; AG Exhibit 1.2, Schedule DJE-2; respectively.) Staff addresses the positions of the Company and the AG below.

III. SCOPE OF THE REHEARING

Staff's understanding of the scope of the rehearing is the reconsideration of the amount of post-test year capital additions to be included in rate base, including all impacts of the additions; both increases and decreases to the revenue requirement. (Tr., pp. 101-102.) Likewise, the AG, by basing its adjustments on actual balances as of November 30, 2003, considers all changes resulting from the capital additions that are the subject of this rehearing. (AG Exhibit 1.2, p. 4.)

The Company, on the other hand, changes its interpretation of the scope of the instant rehearing several times during the course of the proceeding. During the Prehearing Conference on December 18, 2003, the Company stated that in requesting rehearing it was asking for the opportunity "to support the level of plant through the period up for adjustment that's authorized by rule", not to support only the additions to plant through that period. (Tr., pp. 10-11.) The Company subsequently argues in a data request response that the "Order on Rehearing" (sic) was "very clear" that only the post-test year capital additions on the major projects along with the increase in the total accumulated depreciation were to be included. (ICC Staff Cross Exhibit Weiss-1 Rehearing, p. 1 of 8.) That being said, the Company then proposes an adjustment increasing depreciation expense (Tr., pp. 44-45), thus increasing the revenue requirement on rehearing. The Company agrees to include adjustments related to the post-test year capital additions that increase the revenue requirement. However, when other adjustments related to the capital additions that decrease the revenue requirement are proposed, UE turns to its interpretation of the scope of the rehearing limiting it to only the gross amount of the capital additions and the increase in accumulated depreciation.

Staff urges the Commission to conclude that *all* impacts of post-test year capital additions, both increases and decreases, be reflected in the recalculated post-test year capital additions for inclusion in rate base. To do otherwise would be in violation of Section 285.150(e), which allows pro forma adjustments for "known and measurable changes", not pro forma adjustments conveniently limited to known and measurable *increases*.

IV. POST-TEST YEAR CAPITAL ADDITIONS

Each party in this proceeding has a different position regarding the appropriate amounts for inclusion as post-test year capital additions. The Company includes all costs charged to capital accounts recorded on its books between June 30, 2002 and November 30, 2003, related to the Alton gas main replacement project. (AmerenUE

Exhibit No. 35.0 Revised, p. 3.) The AG includes the net change in Distribution Plant between June 30, 2002 and November 30, 2003. (AG Exhibit 1.2, p. 4.) Staff's position is that only those post-test year capital additions anticipated by the Company at the time of its initial filing in Docket No. 03-0009 should be included in the calculation of post-test year capital additions in this rehearing (ICC Staff Exhibit 19.0, p. 4), and thus, several adjustments to the Company-proposed amount are necessary.

A. Limitation on Accounts to be Included

Staff limits the post-test year capital additions to those amounts charged to Accounts 376 and 380 during the period July 1, 2002 through November 30, 2003, associated with the Alton gas main replacement project. (Id.) The "Description of Adjustment" on Company Schedule B-2.1 for the post-test year capital additions to Distribution Plant reads as follows:

> Adjustment reflects additions to Accounts 376 and 380 associated with Alton gas main replacement project.

It is apparent that the Company anticipated only additions to Distribution Plant Accounts 376 and 380 at the time of its initial filing. (Id.)

In its rebuttal testimony on rehearing, the Company attempts to counter this adjustment by stating that the accounts omitted (Accounts 324, 328 and 329) are construction overhead accounts which would be transferred to plant in service upon completion of the project. (AmerenUE Exhibit No. 36.0 Revised, pp. 3-4.) At the evidentiary hearing on March 2, 2004, ALJ Albers indicated some concern regarding the significance of these accounts. (Tr., p. 96.) According to 83 Ill. Adm. Code 505, Uniform System of Accounts for Gas Utilities ("USOA"), the description for Account 328 is “Field Measuring and Regulating Station Structures” and for Account 329 is “Other Structures”, both related to Natural Gas Production Plant. Account 324 is not listed in the USOA. Since Gas Production Plants are not included in Distribution Plant, the category of post-test year capital additions under consideration in this proceeding, Accounts 328, 329, and 324 should not be considered in the recalculation of post-test year capital additions on rehearing.

The AG likewise omitted Accounts 324, 328 and 329 from its calculation of post-test year capital additions, since it used only the changes to Distribution Plant accounts as set forth on AG Exhibit 1.2, Schedule DJE-1.

The Commission should accept Staff’s position limiting the post-test year plant additions to those anticipated at the time of the Company’s initial filing, thereby increasing only the Distribution Plant Accounts 376 and 380. Production Plant accounts are not Distribution Plant accounts. Any overhead associated with Production Plant accounts would not be associated with the gas main replacement project related to Distribution Plant.

Therefore, Staff recommends that the Commission limit UE’s post-test year plant additions to the changes to Accounts 376 and 380 related to the Alton gas main replacement project.

B. Adjustment for Reclassifications

Staff disallows “corrections” made by the Company on November 30, 2003 because they are unsupported. (Tr., p. 100.) The documents provided by the Company in response to Staff data request UE-TEE-117 (ICC Staff Cross Exhibit Weiss-2 Rehearing) (“Cross Exhibit 2”) only address reclassifications related to the allocations applied to invoices covered by a certain purchase order, identified as 064440. Upon review of those revised allocation percentages, Staff found that the recommended percentages were not in fact applied in the adjustments recorded on Ameren's books. (ICC Staff Exhibit 19.0, pp. 5-6.) During cross-examination, Company witness Weiss explained that a different allocation was used for the corrections, reclassifying 100% of the amounts charged to the expense accounts to Account 380. (Tr., p. 70.) However, Mr. Weiss never explained why the support provided to Staff was different from his explanation of the adjustments provided during cross-examination. If his 100% allocation is the "right" one, why was Staff provided with a different set of allocation factors more than two months after the adjustments were made? (Id., p. 91.)

During cross-examination, Mr. Weiss also stated that the November 30, 2003 corrections were a result of the routine review the Company performed on the 2003 Work Order related to the Alton gas main replacement project. (Id., p. 57.) When asked if a similar review was conducted on the 2002 Work Order, Mr. Weiss stated that it was conducted in the Fall of 2002 and that he was certain that similar reclassifications were done at that time. (Id., p. 66.) However, this statement is not supported by documents provided to Staff. Neither the work papers provided by the Company in its supplemental response to Staff data request UE TEE-001 nor the updated queries provided in response to Staff Data request UE TEE-104 show any reclassifications or transfers for the 2002 Work Order. Obviously, the review of work orders and the resulting reclassifications are not as routine as the Company would like one to believe, since the only reclassifications that took place during the period July 1, 2002 through November 30, 2003, were those disallowed by Staff and identified as resulting from the

2003 Work Order review. (ICC Staff Exhibit 19.0, p. 4.)

A review of those items that were "corrected", Cross Exhibit 2, shows the inconsistencies in the Company's reclassification. Page 3 of 12 of Cross Exhibit 2 shows the reclassification of $1,367.80 related to Purchase Order 064440, yet two entries for "Purchasing Rate" also associated with that Purchase Order were not reclassified. Page 7 of 12 of Cross Exhibit 2 shows the reclassification of $14,606.69, yet the last 4 entries on that page also associated with Purchase Order 064440 were not reclassified. Page 9 of 12 of Cross Exhibit 2 shows the reclassification of all entries described as "ARBY CONSTRUCTION IN" totaling $18,532.95, yet the purchasing rate entries associated with Purchase Order 064440 were not reclassified. Page 12 of 12 of Cross Exhibit 2 also includes entries for purchasing rate associated with Purchase Order 064440 which were not reclassified. This haphazard reclassification indicates that the review, and thus the "corrections", described by the Company are not as routine as the Company asserts.

Since the AG's post-test year capital additions adjustment is based on the Company's November 30, 2003 actual book balance, the AG has included these reclassifications in its adjustment. (AG Exhibit 1.2, p. 4.)

The Company's eleventh-hour attempt to explain its corrections to capital accounts related to the post-test year capital additions only illustrates its haphazard attempt to increase the balance of the capital accounts at issue in this rehearing as of November 30, 2003. As such, Staff's adjustment to disallow the reclassification entries should be accepted.

C. Adjustment for Retirements

Staff proposed an adjustment to decrease the post-test year capital additions by the amount of retirements recorded from July 1, 2002 through November 30, 2003 associated with the Alton gas main replacement project. (ICC Staff Exhibit 19.0, p. 6.) The AG, in basing its adjustments on the November 30, 2003 actual book balances, also reflects the impact of the retirements recorded during the measurement period. (AG Exhibit 1.2, p. 4.) Ameren states that, in its opinion, the scope of the rehearing is limited to consider only the post-test year capital additions and the increase in accumulated depreciation; an adjustment to reflect retirements is beyond the scope of the rehearing. (AmerenUE Exhibit No. 36.0 Revised, p. 6.)

Staff describes the following flaws in Ameren's position that post-test year capital additions not be adjusted for the related retirements:

(1) The Company is earning a return on investment it no longer has;

(2) Net plant is overstated to the extent that the retirements have been recorded on the books; and

(3) Depreciation expense is overstated.

While the Company's pro forma Distribution Plant, as presented on AmerenUE Exhibit No. 35.5 Revised, line 25, includes the additions for Projects for July 1, 2002 through November 30, 2003, it does not reflect a reduction for the retirements related to those projects that are no longer being used to provide utility service to the ratepayers. Under this scenario, the ratepayers would continue to pay a return on plant that the utility is no longer using. (ICC Staff Exhibit 19.0, p. 10.) During cross-examination, Company witness Weiss agreed that Ameren would continue to earn a return on the new main installed as well as on the old main that was retired as a result of the main replacement project. (Tr., p. 43.) This is clearly in conflict with the Commission's "used and useful" standard in considering plant in service. (Id., pp. 38-39.)

USOA Gas Plant Instruction 10 sets forth the accounting for the retirement of plant. The book cost of the plant being retired is credited to the appropriate plant account and charged to the Accumulated Provision for Depreciation. In response to Staff data request UE-TEE-101 (ICC Staff Cross Exhibit Weiss-1 Rehearing), the Company indicated that during the period July 1, 2002 through November 30, 2003, it recorded retirements totaling $291,123. (ICC Staff Exhibit 19.0, p. 10.) Mr. Weiss admitted during cross-examination that while he has reduced the accumulated depreciation reserve in his proposal, he has not reflected the offsetting decrease to plant in service. (Tr., p. 41.) Thus, the net plant included in his revised revenue requirement amounts is overstated by $291,000 (rounded to thousands).

Since the Company's depreciation expense is based solely on additions to gross plant in service, the resulting depreciation expense calculation includes a component for plant that has been retired and is no longer used and useful. Therefore, the depreciation expense proposed by the Company is also overstated. (ICC Staff Exhibit 19.0, p. 11.)

The AG offers further argument regarding the improper treatment of retirements by the Company, stating that it is inconsistent to increase plant for expenditures on major projects without also recognizing the effect of retirements directly associated with those major projects. (AG Exhibit 1.2, p. 3.) In short, the Company wants to ignore the side of the retirements that reduces rate base but to recognize the side of the retirements that increases rate base. (Id.)

During redirect, Mr. Weiss stated strongly that the consideration of retirements in association with pro forma post-test year plant additions would be a complete departure from prior Commission policy. (Tr., p. 68.) Mr. Weiss is incorrect. Similar adjustments were proposed by Staff and approved by the Commission in the following recent dockets: CILCO Docket Nos. 01-0465/01-0530/01-0637 (Cons.) (Order, p. 36); ComEd Docket No. 01-0423 (Order, p. 47); and Del Mar Water Company Docket No. 02-0592 (Order, Appendix A, Schedule 4).

In rebuttal testimony, the Company never attempts to address Staff's criticisms of its failure to reflect the retirements in its plant in service adjustment. Instead, the Company points to its interpretation of the scope of the rehearing, which simply ignores the effect of the retirements on plant in service. (AmerenUE Exhibit No. 36.0 Revised, p. 6.)

For these reasons, the Commission should accept Staff's proposed adjustment reflecting retirements associated with the post-test year capital additions.

V. PRESENTATION OF ADJUSTMENT TO PLANT IN SERVICE

In addition to the different opinions as to what should be included in post-test year capital additions, the parties also differ in the presentation of the necessary adjustments to plant in service to be included in the Order on Rehearing. In its Order, the Commission found that post-test year capital additions should be limited to the extent that they exceed increases in accumulated depreciation. (Order, pp. 10-11.) For AmerenCIPS, the excess of post-test year capital additions over increases in accumulated depreciation was a negative amount. This resulted in no adjustment to plant in service for AmerenCIPS, rather than an adjustment to plant with an offsetting adjustment to accumulated depreciation. For consistency in these consolidated dockets, for AmerenUE, the appropriate adjustment should be made only to plant in service for the excess of post-test year capital additions over the increase in accumulated depreciation.

Staff's increase in plant in service for post-test year capital additions is based on the difference between Staff's calculated post-test year capital additions and the increase in accumulated depreciation from July 1, 2002 through November 30, 2003 (ICC Staff Exhibit 19.0, Schedule 19.4 UE Revised), as concluded in the Order and directed by the Notice granting rehearing.

The Company's adjustment to plant in service includes the total post-test year capital additions with an offsetting adjustment to accumulated depreciation to the November 30, 2003 Total Accumulated Depreciation balance. (AmerenUE Exhibit No. 36.1 Revised.)

The AG chose to adjust plant in service by the amount of increase in Distribution Plant from July 1, 2002 through November 30, 2003, with an offsetting adjustment to accumulated depreciation for the amount of change in Distribution Plant Accumulated Depreciation during the same period. (AG Exhibit 1.2, Schedule DJE-1.)

This rehearing was granted to reconsider the amount of the pro forma adjustment for post-test year capital additions; not to relitigate the conclusion reached in the Order with respect to the pro forma adjustment for post-test year capital additions. Company witness Weiss agreed during cross-examination that post-test year capital additions would be an appropriate pro forma adjustment to be proposed for an historical test year rate case. By definition under Section 285.150(e), a pro forma adjustment is an estimate, not an adjustment to actual balances. (Tr., pp. 36-37.) Staff's focus is the limitation placed on the amount of the pro forma adjustment as described in the Order as follows:

> UE's [pro forma] additions to plant in service should be included in rate base to the extent that they exceed increased accumulated depreciation. (Order, pp. 10-11.)

Nothing in the Order's conclusion regarding the amount of post-test year capital additions directs an adjustment to Accumulated Depreciation (as both Ameren and the AG did), nor does it direct the adjustment of any amounts to actual November 30, 2003 balances (as the Company did with regard to Accumulated Depreciation). Due to the timing of the rehearing, actual balances are available for the calculation required in the Order, rather than using estimates for the calculation.

Thus, Staff's adjustment, which correctly presents the adjustment for post-test year capital additions as concluded in the Order and consistent with the treatment of the similar AmerenCIPS issue, should be approved by the Commission.

VI. DIFFERENCES IN ADJUSTMENTS TO DEPRECIATION

Staff proposed an adjustment to depreciation expense based on the amount of post-test year capital additions it proposes should be included in the Order on Rehearing. (ICC Staff Exhibit 19.0, Schedule 19.4 UE Revised.) Similarly, both the Company and the AG proposed adjustments to depreciation expense based on their respective post-test year capital additions. (AmerenUE Exhibit No. 36.1 Revised; AG Exhibit 1.2, Schedule DJE-2.)

It might be argued that the method used by the Company and AG, adjusting both plant and accumulated depreciation, yields the same resulting net plant as Staff's adjustment to plant in service for the difference between the additions and increase in accumulated depreciation. However, the depreciation expense calculated on the increase in plant in service as presented by the Company and the AG is overstated based on the limitation placed by the Order on the amount of post-test year capital additions to be included in rate base.

Staff's methodology in calculating this adjustment to depreciation expense is consistent with that used by the Company in its initial filing (Schedule C-3.16). This methodology is also consistent with past Commission practice; thus, the Commission should approve Staff's adjustment to depreciation expense.

VII. DIFFERENCES IN ADJUSTMENTS TO ACCUMULATED DEPRECIATION

Staff proposed an adjustment to accumulated depreciation also based on the amount of post-test year capital additions it proposes should be included in the Order on Rehearing. (ICC Staff Exhibit 19.0, Schedule 19.4 UE Revised.) The Company and the AG, meanwhile, based their adjustments to accumulated depreciation on actual balances as of November 30, 2003. (AmerenUE Exhibit No. 36.1 Revised; AG Exhibit 1.2, Schedule DJE-2.) Nothing in commonly accepted ratemaking procedures allows adjustments to actual balances 17 months after the end of an historic test year.

Staff's methodology in calculating this adjustment to accumulated depreciation is consistent with that used by the Company in its initial filing (Schedule B-3.1). This methodology is also consistent with past Commission practice; thus, the Commission should approve Staff's adjustment to accumulated depreciation.

VIII. AG'S POSITION

As previously discussed, the AG's proposed adjustments are based on the changes in both total Distribution Plant and Accumulated Depreciation on Distribution Plant from July 1, 2002 through November 2003. During the Prehearing Conference, the ALJ stated that the types of plant additions to be included in this rehearing would be limited to those that would normally be considered under Section 285.150(e). (Tr., pp. 17-18.) The AG's position includes all changes to Distribution Plant, which is beyond those major plant additions anticipated by the Company in its original filing. In rebuttal testimony, Company witness Weiss agrees with Staff's impression of the AG's proposal. (AmerenUE Exhibit No. 36.0 Revised, p. 9.) Therefore, the AG's position should be disregarded as it is clearly beyond the scope of the rehearing.

IX. CONCLUSION

For the reasons set forth in the above discussion, Staff respectfully requests that the Commission approve Staff's adjustments to AmerenUE's post-test year capital additions, as well as the related adjustments to accumulated depreciation and depreciation expense, as presented in ICC Staff Exhibit 19.0, Schedules 19.1 (Revised) and 19.2 (Revised).

Respectfully submitted,

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